

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE ADOPTION OF)	
RULES AND PROCEDURES TO IMPLEMENT)	
THE RENEWABLE ENERGY PORTFOLIO)	
STANDARDS ACT, 26 <i>DEL. C.</i> §§351-363, AS)	
APPLIED TO RETAIL ELECTRICITY)	PSC REGULATION DOCKET
SUPPLIERS)	NO. 56
(OPENED AUGUST 23, 2005;)	
REOPENED SEPTEMBER 4, 2007; AUGUST 5,)	
2008; SEPTEMBER 22, 2009; AUGUST 17,)	
2010; SEPTEMBER 6, 2011; SEPTEMBER 18,)	
2012; FEBRUARY 2, 2017))	

ORDER NO. 9542

AND NOW, this 29th day of January 2020, the Delaware Public Service Commission (“Commission”) determines and orders as follows:

WHEREAS, on or before September 30, 2019, Delmarva Power & Light Company (“Delmarva Power”) submitted to the Director of the Division of Climate, Coastal and Energy of the Delaware Department of Natural Resources and Environmental Control (“DNREC”) its total cost of compliance with renewable energy requirements (for both solar energy and non-solar energy renewable resources) and the total cost of retail electricity for retail electricity suppliers for compliance year 2018 – 2019 (“Delmarva Power’s Cost Numbers”), as required by 26 *Del. Admin. C.* § 3008-3.2.21.1; and

WHEREAS, by October 14, 2019, under 26 *Del. Admin. C.* § 3008-3.2.21.5, DNREC was required to calculate the total cost of compliance for renewable energy (for both solar energy and non-solar energy renewable resources) as a percent of the total retail cost of electricity for compliance year 2018 – 2019 and submit in writing to the Commission its calculations showing whether the total cost of compliance exceeded the statutory thresholds (“DNREC’s Cost

Calculations”) under Sections 354(i) and (j) of the Renewable Energy Portfolio Standards Act (“REPSA”), which calculations are used in the determination as to whether to institute a freeze of the annual percentage increases to Delmarva Power’s renewable energy obligations under REPSA Section 354(a); and

WHEREAS, on October 8, 2019, the Commission granted a request from Superior Court to extend the October 14, 2019 deadline for submission of DNREC’s Cost Calculations by 30 days, to November 13, 2019;¹ and

WHEREAS, DNREC did not submit DNREC’s Cost Calculations to the Commission on November 13, 2019; instead, on December 2, 2019, DNREC Secretary Garvin wrote to PSC Chairman Winslow and Executive Director Barua requesting an extension of the deadline to May 31, 2020, to allow time for a legislative solution to resolve the disputes between the Commission, the Public Advocate and DNREC; and

WHEREAS, at its regularly scheduled meeting on December 5, 2019, the Commission voted to deny DNREC’s request for an extension until May 31, 2020, but agreed to extend the deadline for DNREC’s Cost Calculations to January 15, 2020;² and

WHEREAS, DNREC did not submit DNREC’s Cost Calculations to the Commission by January 15, 2020; and

WHEREAS, at the Commission’s regularly scheduled meeting on January 29, 2020, the Commission considered alternatives regarding enforcement of the deadline and accepted Staff’s recommendation that, instead of commencing enforcement proceedings against DNREC, a sister

¹ As more fully described in Order No. 9522, Superior Court requested the extension in light of its pending decisions on the Commission’s and the Public Advocate’s Motions to Dismiss and DNREC’s Motion for a Stay in *State of Delaware, Dept. of Natural Resources and Environmental Control v. Delaware Public Service Commission*, Case No. N18C-12-260 FWW. As of this date, the Court has yet to issue its decisions on such motions.

² By Order No. 9522 (Dec. 12, 2019), the Commission memorialized its December 5, 2019 vote to extend the deadline for DNREC’s Cost Calculations to January 15, 2020.

state agency which, like the Commission, is charged with promoting the public interest, the Commission direct Delmarva Power to provide Staff with Delmarva Power's Cost Numbers and direct Staff to perform the calculations and present the results to the Commission at its February 19, 2020 regularly scheduled meeting for consideration by the Commission and for consultation with DNREC;

**NOW, THEREFORE, BY AN AFFIRMATIVE VOTE OF NOT FEWER THAN
THREE COMMISSIONERS, THE COMMISSION HEREBY FINDS AND
ORDERS AS FOLLOWS:**

1. That, pursuant to *26 Del. C. § 207*, the Commission directs Delmarva Power to provide Commission Staff with the cost numbers it provided DNREC for REPSA compliance year 2018-2019, as required by *26 Del. Admin. C. § 3008-3.2.21.1*, no later than January 31, 2020.
2. That Staff, using the cost numbers provided by Delmarva Power, complete the cost calculations under *26 Del. Admin. C. § 3008-3.2.21.5*, and circulate the results to the active participants in this matter by February 7, 2020.
3. That Staff present the cost calculations to the Commission at its February 19, 2020 regularly scheduled meeting, with its conclusions as to whether such calculations indicate that the REPSA cost thresholds relating to the freeze determination have been exceeded, for consideration by the Commission and consultation with DNREC, if DNREC chooses to participate.
4. That the Commission reserves jurisdiction and authority to enter such further orders as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chairman

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary